



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

February 1, 2023

By ECF

Honorable Lorna G. Schofield
United States District Judge
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *Patrick Hye v. United States of America et al.*, 21 Civ. 6304 (LGS)

Dear Judge Schofield:

This Office represents the defendant United States of America (the “Government”), in the above-referenced matter brought by Plaintiff Patrick Hye (“Plaintiff”), against the Government and co-defendants NYU Langone Hospitals (“NYU Langone”), and Dr. Omar Tanweer (“Dr. Tanweer”). The parties submit this joint status letter in response to the Court’s Order, dated January 30, 2023 (ECF No. 66), and Section 13.b of the Fourth Amended Civil Case Management Plan and Scheduling Order (ECF No. 62), providing the information outlined in the Court’s Individual Rule IV.A.2, as well as whether the parties request a referral for settlement discussions. The parties apologize to the Court for the delayed filing of this status update.

A. Discovery In This Matter

1. What discovery requests have been propounded, who propounded each request and on what date.

On January 27, 2022, the Government propounded discovery requests to Plaintiff, including interrogatories pertaining to the identities of individuals who provided medical care to Plaintiff, and other witnesses, as well as information concerning Plaintiff’s claimed damages. The Government also issued requests for documents concerning Plaintiff’s medical treatment, alleged injuries, and claimed damages. On January 27, 2022, the Government propounded discovery requests to NYU Langone and Dr. Tanweer, including interrogatories and document requests pertaining to Plaintiff’s medical treatment and alleged injuries.

On February 4, 2022, Plaintiff propounded discovery requests to all defendants, including interrogatories pertaining to the identities of consultants or physicians who saw, examined, and treated plaintiff. Plaintiff also issued document requests for Plaintiff’s medical records held by the Veteran’s Administration (“VA”), the employment agreement for individual defendant Dr. Tanweer, agreements between the VA and NYU Langone pertaining to neurological services, the rules and regulations of the Manhattan VA pertaining to neurological service, supervision of medical staff, attending responsibilities, informed consent, and post-surgical care of patients.

On March 4, 2022, NYU Langone and Dr. Tanweer propounded joint discovery requests to Plaintiff, including interrogatories pertaining to the identities of individuals who provided medical care to Plaintiff, and other witnesses, as well as information concerning Plaintiff's claimed damages. NYU Langone and Dr. Tanweer also issued requests for documents concerning Plaintiff's medical treatment, alleged injuries, and claimed damages.

2. What responses were made, who made each response and on what date.

On April 21, 2022, the Government provided responses and objections in response to Plaintiff's discovery requests, including Plaintiff's interrogatories and document requests, along with production of requested VA medical records and imaging, and VA directives, policies and procedures. On September 7, 2022, the Government made a supplemental production of medical records. On December 12, 2022, the Government made a further supplemental production of medical records.

On April 25, 2022, NYU Langone and Dr. Tanweer provided joint responses and objections to the Government's discovery requests.

On July 15, 2022, Plaintiff provided responses and objections to defendants' respective discovery requests, along with production of responsive documents. On August 4, 2022, Plaintiff provided amended answers to the Government's interrogatories concerning Plaintiff's claimed damages, as well as Plaintiff's personal and business income tax returns for the relevant period.

3. The volume of documents produced, who produced the documents and when.

Government productions:

- December 23, 2021 – 207 pages of documents accompanying initial disclosures;
- April 21, 2022 – 1,583 pages of documents (and imaging);
- September 7, 2022 – 22 pages of documents;
- December 12, 2022 – 251 pages of documents;
- January 24, 2023 – 27 pages of documents received in response to third-party subpoena issued to Plaintiff's former medical provider.

Plaintiff productions:

- February 4, 2022 – 213 pages of documents accompanying initial disclosures;
- July 15, 2022 – 45 pages of documents; and
- August 4, 2022 – 336 pages of documents.

NYU Langone and Dr. Tanweer productions:

- April 25, 2022 – 207 pages of documents accompanying initial disclosures; and
- August 4, 2022 – 24 pages of documents received from third-party Robert Wood Johnson Hospital in New Jersey.

B. Procedural History of the Case to Date**1. What pleadings have been filed, who filed each pleading and on what date.**

Plaintiff filed his initial complaint in this matter against the Government on or about July 25, 2021. (ECF Nos. 1, 4). On December 8, 2021, the Government filed a notice of removal of Plaintiff's separate state court action against several federal employees, as well as co-defendants NYU Langone and Dr. Tanweer. (*See Hye v. United States et al.*, No. 21 Civ. 10484 (S.D.N.Y.), ECF No. 1). On December 16, 2021, the Court so-ordered the parties stipulation substituting the United States for the named federal employees in the separate action, consolidating the two cases, and requiring the filing of an amended consolidated complaint against all parties. (ECF Nos. 22, 23, 25). On December 23, 2021, Plaintiff filed his amended complaint in this action. (ECF No. 24). On January 13, 2022, defendants filed their respective answers to the amended complaint. (ECF Nos. 29-31).

2. What motions, if any, have been filed, who filed each motion and on what date each motion was filed.

No motions (other than letter motions) have been filed in this matter to date.

3. What motions, if any, are currently pending and, for each pending motion, the date it was or is scheduled to be fully briefed.

No motions are currently pending in this matter.

4. The parties' plans to ensure that they meet the Court ordered discovery deadlines.

As outlined in Plaintiff's letter motion for an extension of time to complete discovery (ECF No. 64), only expert discovery remains to be completed in this matter, with a deadline of April 15, 2023. In accordance with the Court's Order (ECF No. 65), Plaintiff will produce his expert reports no later than February 15, 2023; defendants will identify their experts to Plaintiff by March 8, 2023; defendants will produce their expert reports to Plaintiff by March 15, 2023; and the parties will file a joint letter with firm dates for expert depositions by March 15, 2023.

At this time, the parties anticipate no issues with meeting the expert discovery deadlines outlined above and will work cooperatively to ensure those deadlines are met.

C. Referral for Settlement Discussions

The parties do not request a referral for settlement discussions at this time. The parties respectfully propose a further update to the Court on whether a referral for settlement discussions is worthwhile after the close of expert discovery on April 15, 2023.

We thank the Court for its consideration of this matter.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York
Attorney for the Government

By: /s/ David E. Farber
DAVID E. FARBER
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel.: (212) 637-2772
E-mail: david.farber@usdoj.gov

CC: All counsel of record (by ECF)